

LEGISLATIVE BILL 521

Approved by the Governor May 26, 2011

Introduced by Fulton, 29; McCoy, 39; Bloomfield, 17; Brasch, 16; Pirsch, 4.

FOR AN ACT relating to abortion; to amend section 28-335, Reissue Revised Statutes of Nebraska; to require the physical presence of the physician who performs, induces, or attempts to perform an abortion as prescribed; to provide a penalty; to provide severability; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 28-335, Reissue Revised Statutes of Nebraska, is amended to read:

28-335 (1) The performing of an abortion by any person other than a licensed physician is a Class IV felony.

(2) No abortion shall be performed, induced, or attempted unless the physician who uses or prescribes any instrument, device, medicine, drug, or other substance to perform, induce, or attempt the abortion is physically present in the same room with the patient when the physician performs, induces, or attempts to perform or induce the abortion. Any person who knowingly or recklessly violates this subsection shall be guilty of a Class IV felony. No civil or criminal penalty shall be assessed against the patient upon whom the abortion is performed, induced, or attempted to be performed or induced.

Sec. 2. If any one or more provisions, sections, subsections, sentences, clauses, phrases, or words of this act or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of this act shall remain effective notwithstanding such unconstitutionality. The Legislature hereby declares that it would have passed this act, and each provision, section, subsection, sentence, clause, phrase, or word thereof, irrespective of the fact that any one or more provisions, sections, subsections, sentences, clauses, phrases, or words be declared unconstitutional.

Sec. 3. Original section 28-335, Reissue Revised Statutes of Nebraska, is repealed.